



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2021-0176; FRL-10023-40-Region 9]

Approval of California Air Plan Revision, Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Imperial County Air Pollution Control District (ICAPCD or “District”) portion of the California State Implementation Plan (SIP). The revision concerns emissions of volatile organic compounds (VOCs) from gasoline transfer at bulk gasoline terminals storage. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2021-0176 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER**

INFORMATION CONTACT section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Donnique Sherman, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4129 or by email at sherman.donnique@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State’s Submittal

A. *What rule did the State submit?*

Table 1 lists the rule addressed by this proposal with the dates that it was revised by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULE

Local Agency	Rule #	Rule Title	Revised	Submitted
ICAPCD	415	Transfer and Storage of Gasoline	11/03/2020	02/19/2021

On March 9, 2021, the EPA determined that the submittal for ICAPCD revised Rule 415 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. *Are there other versions of this rule?*

We approved an earlier version of Rule 415 into the SIP on February 22, 2005 (70 FR 8520). The ICAPCD adopted revisions to the SIP-approved version on November 3, 2020, and CARB submitted them to us on February 19, 2021. If we take final action to approve the November 3, 2020 version of Rule 415, this version will replace the previously approved version of the rule in the SIP.

C. *What is the purpose of the submitted rule revision?*

Emissions of VOCs contribute to the production of ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. SIP-approved Rule 415 limits VOCs from the transfer and storage of gasoline, including stationary storage containers, terminals and bulk plants, gasoline delivery vessels, and vehicle fuel tanks. The rule was recently revised to lower the VOC emissions limit for gasoline transfers at bulk gasoline terminals. On March 16, 2020 (85 FR 8181), the EPA conditionally approved a portion of the California SIP revision submitted on November 14, 2017, demonstrating that control measures in the Imperial County Air Pollution Control District implemented reasonably available control technologies (RACT) for the 2008 8-hour National Ambient Air Quality Standards (NAAQS). The conditional approval was based on a commitment from the State to submit new or revised rules that would correct deficiencies in Rule 415, Transfer and Storage of Gasoline, to establish RACT-level controls for sources covered by the Control Techniques Guidelines (CTG) source category “Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals” (EPA-450/2-

77-026). Revisions to Rule 415 on November 3, 2020, corrected the deficiency. The EPA's technical support document (TSD) has more information about this rule.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require RACT for each category of sources covered by a CTG document as well as each major source of VOCs in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). The ICAPCD regulates an ozone nonattainment area classified as Moderate for the 2008 8-hr ozone NAAQS (40 CFR 81.305). Therefore, this rule must implement RACT.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals," EPA 450/2-77-026, October 1977.

5. “Control of Volatile Organic Emissions from Bulk Gasoline Plants,” EPA-450/2-77-035, December 1977.
6. “Design Criteria for Stage I Vapor Control Systems – Gasoline Service Stations,” EPA-450/R-75-102, November 1975.
7. “Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems,” EPA-450/2-78-051, December 1978.

B. *Does the rule meet the evaluation criteria?*

This rule meets CAA requirements and is consistent with relevant guidance regarding enforceability, RACT, and SIP revisions and fulfills the District’s commitment to revise the rules to lower the emissions limit for gasoline transfers at bulk terminals in order to meet current RACT. The TSD has more information on our evaluation.

C. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because it fulfills all relevant requirements. In addition, we propose to convert the partial conditional approval of the District’s 2008 RACT SIP, as found in 40 CFR 52.248 (i), to a full approval. We will accept comments from the public on this proposal until [**Insert date 30 days after date of publication in the *Federal Register***]. If we take final action to approve the submitted rule, our final action will incorporate this rule into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the ICAPCD rule described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference
Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: April 30, 2021.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

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